

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

Case No. 2012-326

VANESSA BETH GARCIA
967 North Roosevelt Street
Fresno, CA 93701

Applicant for Registered Nurse License

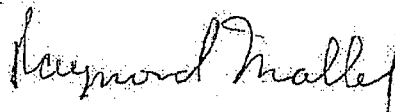
Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **September 07, 2012.**

IT IS SO ORDERED **August 8, 2012.**



Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA H. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **THE SUCCESSOR TO THE BOARD OF REGISTERED NURSING**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2012-326

13 **VANESSA BETH GARCIA**
967 North Roosevelt Street
14 Fresno, CA 93701

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN (Complainant), brought this action solely in her capacity
21 as Executive Officer of the Board of Registered Nursing (Board), Department of Consumer
22 Affairs. This action is maintained pursuant to a Delegation of Authority from the Board and its
23 Executive Officer to the Department of Consumer Affairs, effective December 31, 2011. The
24 Board or its successor is represented in this matter by Kamala D. Harris, Attorney General of the
25 State of California, by Jeffrey M. Phillips, Deputy Attorney General.

26 2. Respondent Vanessa Beth Garcia (Respondent) is representing herself in this
27 proceeding and has chosen not to exercise her right to be represented by counsel.

28 / / /

3. On or about March 23, 2011, Respondent filed an application dated March 17, 2011, with the Department of Consumer Affairs to obtain a Registered Nurse License.

JURISDICTION

4. Statement of Issues No. 2012-326 was filed before the Board and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on December 5, 2011.

ADVISEMENT AND WAIVERS

5. Pursuant to Business and Professions Code section 102.3, the Board delegated its duties to the Department of Consumer Affairs by way of an interagency agreement, effective December 31, 2011, until legislation re-establishing the Board takes effect. A copy of the interagency agreement is attached as Exhibit B and incorporated by reference. Hereinafter, all references to the Board shall include the Board or its successor.

6. Respondent acknowledges and agrees that the Board has continuing jurisdiction to discipline her license.

7. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 2012-326. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

8. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

10. Should this stipulated settlement be presented at a hearing before an Administrative Law Judge for preparation of a proposed decision, Respondent voluntarily, knowingly, and

1 intelligently waives stenographic reporting of the proceeding and hereby consents to electronic
2 reporting of the proceeding (Gov. Code, § 11512 (d)).

3 CULPABILITY

4 11. Respondent admits the truth of each and every charge and allegation in Statement of
5 Issues No. 2012-326.

6 12. Respondent agrees that her Registered Nurse License is subject to denial and she
7 agrees to be bound by the probationary terms as set forth in the Disciplinary Order below.

8 RESERVATION

9 13. The admissions made by Respondent herein are only for the purposes of this
10 proceeding, or any other proceedings in which the Department of Consumer Affairs, the
11 Successor to the Board of Registered Nursing, or other professional licensing agency is involved,
12 and shall not be admissible in any other criminal or civil proceeding.

13 CONTINGENCY

14 14. This stipulation shall be subject to approval by the Board pursuant to the Board's
15 delegation of authority as set forth in the attached interagency agreement. Respondent
16 understands and agrees that counsel for Complainant and Board staff may communicate directly
17 with the Board regarding this stipulation and settlement, without notice to or participation by
18 Respondent or her counsel.

19 By signing the stipulation, Respondent understands and agrees that she may not withdraw
20 her agreement or seek to rescind the stipulation before the Board act on it or it becomes effective
21 by operation of law pursuant to the Administrative Procedure Act (Gov. Code, § 11340 et seq.).
22 If the Stipulated Settlement and Disciplinary Order is rejected by the Board as the final resolution
23 of the pending accusation, it shall be of no force or effect, except for this paragraph it shall be
24 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
25 further action by having considered this matter.

26 15. The parties understand and agree that facsimile copies of this Stipulated Settlement
27 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
28 effect as the originals.

16. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

17. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED:

The application of Respondent Vanessa Beth Garcia for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of two (2) years on the following conditions:

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including

1 probation or parole, and the order is violated, this shall be deemed a violation of these probation
2 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

3 **2. Comply with the Board's Probation Program.** Respondent shall fully comply with
4 the conditions of the Probation Program established by the Board and cooperate with
5 representatives of the Board in its monitoring and investigation of the Respondent's compliance
6 with the Board's Probation Program. Respondent shall inform the Board in writing within no
7 more than 15 days of any address change and shall at all times maintain an active, current license
8 status with the Board, including during any period of suspension.

9 Upon successful completion of probation, Respondent's license shall be fully restored.

10 **3. Report in Person.** Respondent, during the period of probation, shall appear in
11 person at interviews/meetings as directed by the Board or its designated representatives.

12 **4. Residency, Practice, or Licensure Outside of State.** Periods of residency or
13 practice as a registered nurse outside of California shall not apply toward a reduction of this
14 probation time period. Respondent's probation is tolled, if and when she resides outside of
15 California. Respondent must provide written notice to the Board within 15 days of any change of
16 residency or practice outside the state, and within 30 days prior to re-establishing residency or
17 returning to practice in this state.

18 Respondent shall provide a list of all states and territories where she has ever been licensed
19 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
20 information regarding the status of each license and any changes in such license status during the
21 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
22 license during the term of probation.

23 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit
24 or cause to be submitted such written reports/declarations and verification of actions under
25 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
26 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
27 Respondent shall immediately execute all release of information forms as may be required by the
28 Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. **Employment Approval and Reporting Requirements.** Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this Decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

1 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding
2 Respondent's level of supervision and/or collaboration before commencing or continuing any
3 employment as a registered nurse, or education and training that includes patient care.

4 Respondent shall practice only under the direct supervision of a registered nurse in good
5 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
6 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
7 approved.

8 Respondent's level of supervision and/or collaboration may include, but is not limited to the
9 following:

10 (a) Maximum - The individual providing supervision and/or collaboration is present in
11 the patient care area or in any other work setting at all times.

12 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
13 care unit or in any other work setting at least half the hours Respondent works.

14 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
15 person communication with Respondent at least twice during each shift worked.

16 (d) Home Health Care - If Respondent is approved to work in the home health care
17 setting, the individual providing supervision and/or collaboration shall have person-to-person
18 communication with Respondent as required by the Board each work day. Respondent shall
19 maintain telephone or other telecommunication contact with the individual providing supervision
20 and/or collaboration as required by the Board during each work day. The individual providing
21 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
22 patients' homes visited by Respondent with or without Respondent present.

23 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
24 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
25 or for an in-house nursing pool.

26 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
27 registered nursing supervision and other protections for home visits have been approved by the
28 Board. Respondent shall not work in any other registered nursing occupation where home visits

are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Violation of Probation.** If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. **License Surrender.** During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate

Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

(1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or

(2) One year for a license surrendered for a mental or physical illness.

13. **Physical Examination.** Within 45 days of the effective date of this Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the Respondent's physical condition and capability to perform the duties of a registered nurse, including a determination as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the Respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified Respondent that a medical determination permits Respondent to resume practice. This period of suspension will not apply to the reduction

1 of this probationary time period.

2 If Respondent fails to have the above assessment submitted to the Board within the 45-day
3 requirement, Respondent shall immediately cease practice and shall not resume practice until
4 notified by the Board. This period of suspension will not apply to the reduction of this
5 probationary time period. The Board may waive or postpone this suspension only if significant,
6 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
7 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
8 Only one such waiver or extension may be permitted.

9 **14. Mental Health Examination.** Respondent shall, within 45 days of the effective date
10 of this Decision, have a mental health examination including psychological testing as appropriate
11 to determine her capability to perform the duties of a registered nurse, including a determination
12 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The
13 examination will be performed by a psychiatrist, psychologist or other licensed mental health
14 practitioner approved by the Board. The examining mental health practitioner will submit a
15 written report of that assessment and recommendations to the Board. All costs are the
16 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
17 result of the mental health examination will be instituted and followed by Respondent.

18 If Respondent is determined to be unable to practice safely as a registered nurse, the
19 licensed mental health care practitioner making this determination shall immediately notify the
20 Board and Respondent by telephone, and the Board shall request that the Attorney General's
21 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
22 practice and may not resume practice until notified by the Board. During this period of
23 suspension, Respondent shall not engage in any practice for which a license issued by the Board
24 is required, until the Board has notified Respondent that a mental health determination permits
25 Respondent to resume practice. This period of suspension will not apply to the reduction of this
26 probationary time period.

27 If Respondent fails to have the above assessment submitted to the Board within the 45-day
28 requirement, Respondent shall immediately cease practice and shall not resume practice until

1 notified by the Board. This period of suspension will not apply to the reduction of this
2 probationary time period. The Board may waive or postpone this suspension only if significant,
3 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
4 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
5 Only one such waiver or extension may be permitted.

6 **15. Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical
7 and/or mental health examination determines that the respondent is dependent upon drugs or
8 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol
9 dependence in remission), that might reasonably affect the safe practice of nursing, then the
10 respondent must further comply with the following additional terms and conditions of probation:

11 **A. Participate in Treatment/Rehabilitation Program for Chemical**
12 **Dependence.** Respondent, at her expense, shall successfully complete during the
13 probationary period or shall have successfully completed prior to commencement
14 of probation a Board-approved treatment/rehabilitation program of at least six
15 months duration. As required, reports shall be submitted by the program on forms
16 provided by the Board. If Respondent has not completed a Board-approved
17 treatment/rehabilitation program prior to commencement of probation,
18 Respondent, within 45 days from the effective date of the decision, shall be
19 enrolled in a program. If a program is not successfully completed within the first
20 nine months of probation, the Board shall consider Respondent in violation of
21 probation.

22 Based on Board recommendation, each week Respondent shall be required
23 to attend at least one, but no more than five 12-step recovery meetings or
24 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse
25 support group as approved and directed by the Board. If a nurse support group is
26 not available, an additional 12-step meeting or equivalent shall be added.
27 Respondent shall submit dated and signed documentation confirming such
28 attendance to the Board during the entire period of probation. Respondent shall

1 continue with the recovery plan recommended by the treatment/rehabilitation
2 program or a licensed mental health examiner and/or other ongoing recovery
3 groups.

4 **B. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
5 shall completely abstain from the possession, injection or consumption by any
6 route of all controlled substances and all psychotropic (mood altering) drugs,
7 including alcohol, except when the same are ordered by a health care professional
8 legally authorized to do so as part of documented medical treatment. Respondent
9 shall have sent to the Board, in writing and within fourteen (14) days, by the
10 prescribing health professional, a report identifying the medication, dosage, the
11 date the medication was prescribed, the Respondent's prognosis, the date the
12 medication will no longer be required, and the effect on the recovery plan, if
13 appropriate.

14 Respondent shall identify for the Board a single physician, nurse
15 practitioner or physician assistant who shall be aware of Respondent's history of
16 substance abuse and will coordinate and monitor any prescriptions for Respondent
17 for dangerous drugs, controlled substances or mood-altering drugs. The
18 coordinating physician, nurse practitioner, or physician assistant shall report to the
19 Board on a quarterly basis Respondent's compliance with this condition. If any
20 substances considered addictive have been prescribed, the report shall identify a
21 program for the time limited use of any such substances.

22 The Board may require the single coordinating physician, nurse
23 practitioner, or physician assistant to be a specialist in addictive medicine, or to
24 consult with a specialist in addictive medicine.

25
26 **C. Submit to Tests and Samples.** Respondent, at her expense, shall
27 participate in a random, biological fluid testing or a drug screening program which
28 the Board approves. The length of time and frequency will be subject to approval

1 by the Board. Respondent is responsible for keeping the Board informed of
2 Respondent's current telephone number at all times. Respondent shall also ensure
3 that messages may be left at the telephone number when she is not available and
4 ensure that reports are submitted directly by the testing agency to the Board, as
5 directed. Any confirmed positive finding shall be reported immediately to the
6 Board by the program and Respondent shall be considered in violation of
7 probation.

8 In addition, Respondent, at any time during the period of probation, shall
9 fully cooperate with the Board or any of its representatives, and shall, when
10 requested, submit to such tests and samples as the Board or its representatives may
11 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
12 controlled substances.

13 If Respondent has a positive drug screen for any substance not legally
14 authorized and not reported to the coordinating physician, nurse practitioner, or
15 physician assistant, and the Board files a petition to revoke probation or an
16 accusation, the Board may suspend Respondent from practice pending the final
17 decision on the petition to revoke probation or the accusation. This period of
18 suspension will not apply to the reduction of this probationary time period.

19 If Respondent fails to participate in a random, biological fluid testing or
20 drug screening program within the specified time frame, Respondent shall
21 immediately cease practice and shall not resume practice until notified by the
22 Board. After taking into account documented evidence of mitigation, if the Board
23 files a petition to revoke probation or an accusation, the Board may suspend
24 Respondent from practice pending the final decision on the petition to revoke
25 probation or the accusation. This period of suspension will not apply to the
26 reduction of this probationary time period.

27 **D. Therapy or Counseling Program.** Respondent, at her expense, shall
28 participate in an on-going counseling program until such time as the Board

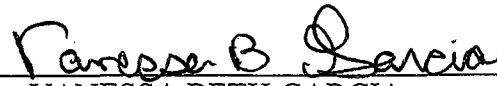
1 releases her from this requirement and only upon the recommendation of the
2 counselor. Written progress reports from the counselor will be required at various
3 intervals.

4 ACCEPTANCE

5 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
6 stipulation and the effect it will have on my Registered Nurse License. I enter into this
7 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
8 to be bound by the Decision and Order of the Board of Registered Nursing.

9
10 DATED:

2/15/12



VANESSA BETH GARCIA

Respondent

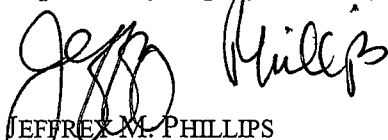
1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
4 Affairs.

5 Dated: March 5, 2012

Respectfully submitted,

6
7 KAMALA D. HARRIS
Attorney General of California
8 ARTHUR D. TAGGART
Supervising Deputy Attorney General

9 
10 JEFFREY M. PHILLIPS
11 Deputy Attorney General
Attorneys for Complainant
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Exhibit A

Statement of Issues No. 2012-326

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
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Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **VANESSA BETH GARCIA**
14 **967 N. Roosevelt Street**
15 **Fresno, CA 93701**

16 Respondent.

Case No. **2012-326**

STATEMENT OF ISSUES

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
20 in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 **Application Information**

23 2. On or about March 23, 2011, the Board of Registered Nursing, Department of
24 Consumer Affairs received an Application for Licensure by Examination from Vanessa Beth
25 Garcia ("Respondent"). On or about March 17, 2011, Vanessa Beth Garcia certified under
26 penalty of perjury to the truthfulness of all statements, answers, and representations in the
27 application. The Board denied the application on May 26, 2011.

28 ///

STATUTORY PROVISIONS

3. Section 2736 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under Code section 480.

4. Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

5. Code section 2761, subdivision (f) states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Criminal Conviction)

6. Respondent's application is subject to denial pursuant to Code sections 2736, 480, subdivision (a)(1), and 2761, subdivision (f), in that Respondent has been convicted of the following crime that is substantially related to the qualifications, functions, or duties of a registered nurse:

a. On or about July 7, 2010, in the Superior Court, County of Fresno, California in the matter entitled *People vs. Vanessa Beth Garcia*, 2009, Case No. M09926154 M A, Respondent was convicted following her plea of nolo contendere to a violation of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08% or more), a misdemeanor. The circumstances of the crime are that on October 6, 2009, Respondent was arrested for driving

1 under the influence of alcohol, following a one-vehicle traffic collision. Respondent's vehicle
2 drifted onto the right shoulder of the roadway, made a sudden hard left turn, crossed through the
3 westbound and eastbound lanes of traffic, and overturned onto its right side on a private lawn.
4 Respondent's blood alcohol level measured .12%.

5 **SECOND CAUSE FOR DENIAL OF APPLICATION**

6 **(Committed Acts Which if Done by a Licentiate Would Constitute Cause for Discipline)**

7 7. Respondent's application is subject to denial pursuant to Code sections 2736 and 480
8 subdivision (a)(3)(A), in that Respondent committed acts which if done by a licentiate constitute
9 cause for discipline pursuant to Code section 2761, subdivisions (a) and (f) and section 2762,
10 subdivisions (b) and (c).

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Denying the application of Vanessa Beth Garcia for a registered nurse license; and,
15 2. Taking such other and further action as deemed necessary and proper.

16
17
18 DATED: November 23, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

Exhibit B

**Interagency Agreement between the Department of Consumer Affairs
and the California Board of Registered Nursing**

INTERAGENCY AGREEMENT

Between the Department of Consumer Affairs
&
California Board of Registered Nursing

WHEREAS, Business and Professions Code Sections 2701 and 2708, establishing the Board of Registered Nursing ("Board") and providing for an Executive Officer to perform the duties delegated by the Board will become ineffective and repealed effective January 1, 2012; and

WHEREAS, the Nursing Practice Act has not been repealed and will remain in full force and effect; and

WHEREAS, the Board is within the Department of Consumer Affairs ("Department"); and

WHEREAS, it is the mission of the Board and Department to provide as much consumer protection as possible; and

WHEREAS, the Board has, by vote at its meeting on November 16, 2011, delegated to the Department as of December 31, 2011, those duties, powers and responsibilities that the Board has previously delegated to the Board's Executive Officer as of December 31, 2011, and, further, approved entering into this agreement; and

WHEREAS, the Board and the Department wish to provide for the continued administration of those provisions of the Nursing Practice Act that have been delegated to the Board's Executive Officer in an uninterrupted and stable manner until legislation re-establishing the Board takes effect;

NOW THEREFORE, the parties to this Interagency Agreement (hereinafter "Agreement") agree as follows:

1. The Department accepts the delegation as approved by the Board and confirmed in this Agreement, and agrees to perform all such responsibilities in the best interests of protecting the public and consistently with the Nursing Practice Act.
2. The Board hereby authorizes and empowers the Department to the extent authorized by law, and subject to the review and approval of the State and Consumer Services Agency, to exercise those powers, duties and responsibilities that have been delegated to the Board's Executive Officer as of December 31, 2011, to administer the Nursing Practice Act.
3. The Board hereby authorizes the Department to utilize any previously appropriated funds of the Board to carry out the responsibilities in administering the Nursing Practice Act in conjunction with this Agreement; and those funds shall be used for the

purposes for which the Board of Registered Nursing Fund, Professions and Vocations Fund was established.

4. The Department shall adhere to all current Board policies while this Agreement is in effect; all regulations and policies that have been adopted by the Board as of December 31, 2011, shall remain in effect until the time that legislation re-establishing the Board takes effect.

5. This Agreement shall take effect on December 31, 2011, and remain in effect until the time that legislation re-establishing the Board takes effect.

6. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

IT IS SO AGREED:

Department of Consumer Affairs ("Department")

By Brian Stiger
Brian Stiger, Acting Director

12/14/11
Date

California Board of Registered Nursing

By Jeannine Graves
Jeannine Graves, President
Doug Hoffman, Vice President

12/14/11
Date

Approved:

By Anna M. Caballero
Anna M. Caballero, Secretary
State and Consumer Services Agency

12/14/11
Date